

The statutory restriction is thus far less burdensome than the unfortunate paragraph 16 tentative conclusion, which would narrowly restrict what a carrier may do with its own data obtained from its own customers in the course of business.

There is no attempt whatever in paragraph 16 to suggest why such a startling and sweeping restriction on a carrier's use of its own data needs to be imposed. Nor is there anything to indicate why the rationale underlying section 222 and whatever rules the Commission adopts in D.96-115 implementing section 222 would not suffice to protect the public interest in the context of this CC Docket No. 97-181 ("D.97-181"). When a set of detailed and carefully developed rules, in this case governing the protection of confidential customer data, are adopted by the agency implementing a specific statutory mandate -- ideally, rules that safeguard the public interest without creating unreasonable burdens -- why would there be any need to invent a still more constricting set of rules whenever a problem arises involving confidential customer data? Why would the agency not simply apply its carefully fashioned rules?

A telecommunications carrier that has confidential information about its own customers gathered in the course of business has an ownership interest in that data which may not be simply swept away without raising serious legal and constitutional issues. Such a carrier is entitled to employ that information in seeking to improve service, improve administrative procedures, improve marketing, and in other ways work to assure the satisfaction and retention of customers. Coming out of nowhere, paragraph 16 introduces as a tentative conclusion narrow constrictions disassociated from any rationale whatever -- constrictions that would arbitrarily deny a

telecommunications carrier the right to use data forming part of its legitimate property interests.

GTE suggests that the paragraph 16 tentative conclusion is not supported by any rationale; conflicts with the deregulatory thrust of present Commission policy implementing the 1996 Act; would impose severe and unnecessary restrictions on the flow of a carrier's own information in derogation of the carrier's working relationship with its own customers; and would go far beyond, and conflict with, the compromises embodied in section 222.

Accordingly: GTE urges the Commission in this D.97-181 to simply refer to the terms of section 222 and the CPNI rules shortly to be adopted in D.96-115, in the expectation that to the extent issues involving confidential customer data arise, they will be dealt with under the terms of a recent Act of Congress and newly adopted Commission rules and policies.

VII. THE COMMISSION WAS CORRECT IN DECIDING THAT A NATIONAL DATA BASE IS UNNECESSARY.

In response to previous suggestions to deploy a national data base to track primary lines for universal service support, Teleport and MFS recommend two methods that presuppose that the determination of primary line is associated with a physical address. GTE is opposed to these suggestions for two reasons. First, the recommendations, if adopted, would *de facto* make the definition of primary lines a function of the physical address. This decision has not been made as yet, and there is a much stronger case for using other factors.

Second, the Commission is correct that the costs of maintaining such a national data base is likely to outweigh any benefits accruing from its deployment.

Accordingly: GTE supports the Commission's tentative conclusion and urges it to reject all future attempts to implement national data bases for the purpose of tracking customer lines.

VIII. THE COMMISSION MUST REJECT ATTEMPTS TO ESTABLISH ONEROUS AND UNNECESSARY AUDIT PROCEDURES TO CONTROL POSSIBLE MISREPORTING OF PRIMARY LINES.

It is curious that the Notice (at paragraph 18) seeks to establish a self-certification procedure whereby the customer is permitted to tell the ILEC whether a given line is primary or not, and in the same instant, suggests that this process may lead to misreporting of lines and seeks recommendations on controls to ensure this does not occur. There is little opportunity for an ILEC to control effectively how customers will respond to questions about primary versus non-primary service. GTE's four-step recommendation previously described, where customers are afforded the opportunity to "self-certify" through the customer initiated review process, still assumes a high degree of customer integrity. Similarly, interexchange carriers must trust the integrity of the ILECs to properly bill PICCs.

This is no different than any other billing relationship between customers and suppliers. The accurate accounting of a customer's bill is a matter of record between the ILEC and its customers. When customers have reason to question the accuracy of their bills, there are well established trouble resolution procedures available to them by which discrepancies can be resolved. If the Commission is concerned that these long existing methods are inadequate to address its belief that audits are necessary, the

Commission must establish itself or an as yet unknown agency to conduct, process, and report on audit findings stemming from this Notice.

The Commission must reject proposals for unnecessary audits and enforcement controls that will only place additional and extraordinary burdens on ILECs (and only ILECs). However, to the extent that the Commission decides that audits are necessary, it should limit such audits to procedural issues and not results. The Commission should *only concern itself with how the information about primary lines is gathered and not with actual customer lines*. Regarding the Commission's proposal to use the Hatfield model as a basis for conducting an audit, GTE categorically rejects any proposal that uses estimates when actual data are available. GTE's proposed definition uses billing

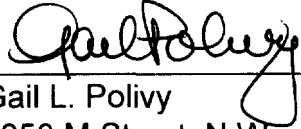
records to determine primary line status. There can be no justification for using highly questionable estimates such as those produced by Hatfield.²¹

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²¹ "The Use of Computer Models for Estimating Forward-looking Economic Costs", (rel Jan. 9, 1997). In the Commission's own staff analysis, the staff concluded, "Each of the models' approaches to estimating business and residential loop demand appears to have drawbacks that may lead to significant modeling inaccuracies."